

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADLIFE MARKETING & COMMUNICATIONS
COMPANY, INC.

Plaintiff,

- against -

GREATIST, INC.

Defendant.

Docket No. 1:19-cv-787

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Adlife Marketing & Communications Company, Inc. (“Adlife” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Greatist, Inc. (“Greatist” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a cheese pizza, owned and registered by Adlife, an advertising agency specializing in design, digital marketing, print advertising and photography. Accordingly, Adlife seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in North York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Adlife is an advertising agency specializing in design, digital marketing, print advertising and photography having a usual place of business at 38 Church Street, Pawtucket, Rhode Island 02860.

6. Upon information and belief, Greatist is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 30 Vandam Street, Floor 3, New York, New York 10013. Upon information and belief, Greatist is registered with the New York State Department of State to transact business in New York. At all times material, hereto, Hollywood has owned and operated a website at the URL: www.Greatist.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Adlife is the copyright holder a photograph of a cheese pizza (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Adlife has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and given registration number VA 2-047-009.

B. Defendant’s Infringing Activities

10. Greatist ran an article on the Website entitled *74 Smart Ways to Make Healthier Pizza (That Still Tastes Amazing)*. See: <https://greatist.com/health/make-healthier-pizza/amp>. The Website featured the Photograph. A true and correct copy of the article is attached hereto in Exhibit B.

11. Greatist did not license the Photograph from Plaintiff for its article, nor did Greatist have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST GREATIST)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Greatist infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Greatist is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Greatist be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendants profits, gains or advantages of any kind attributable to Defendants infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
January 28, 2019

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